

June 20, 1997

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON

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REPORT AND RECOMMENDATION.

SUBJECT: Department of Development and Environmental Services File No. **L96RZ002**
Proposed Ordinance No. **97-270**

PLATEAU PROPERTIES
Application for Reclassification

Location: Northeast corner of Northeast 8th Street and 228th Avenue Northeast

Applicant: Joe Blattner
Tarragon, LLC
2824 - 142nd Avenue East, #100
Sumner, WA 98390
(206) 863-1122

SUMMARY OF RECOMMENDATIONS:

Division's Preliminary:	Approve, subject to conditions
Division's Final:	Approve, subject to conditions
Examiner:	Approve, subject to conditions

PRELIMINARY MATTERS:

Application: June 12, 1996
Notice of complete application: July 9, 1996

EXAMINER PROCEEDINGS:

Hearing Opened: May 22, 1997
Hearing Closed: June 6, 1997

Participants at the proceedings and the exhibits offered and entered are listed in the attached minutes.
A verbatim recording of the hearing is available in the Office of the King County Hearing Examiner.

ISSUES ADDRESSED:

- Reclassification, changed conditions

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. GENERAL INFORMATION:

Owner:	Joe Blattner Tarragon, LLC 2824 - 142nd Avenue East, #100 Sumner, WA 98390 (206) 863-1122
STR:	SW 27-25-6
Existing Zoning:	O-P (Office with P-suffix conditions)
Requested Zoning:	CB-P (Community Business with P-suffix conditions)
Size:	4.42 acres
Location:	Northeast corner of Northeast 8th Street and 228th Avenue Northeast
Request:	A zone reclassification from O-P to CB-P
Proposal:	To rezone the subject 4.42 acres to allow development of a mixed-use project consisting of approximately 50,000 square feet of retail and 100 multi-family residential units, including the construction of an underground garage.
Community Plan Area:	East Lake Sammamish
Comprehensive Plan Designation:	Community Business Center
Agencies Contacted:	Washington State Department of Fisheries Washington State Department of Wildlife Washington State Department of Transportation Washington State Department of Ecology Washington State Parks and Recreation Fire District No. 10 Lake Washington School District No. 414 Sammamish Plateau Sewer and Water District King County Traffic and Planning Division King County Public Health Department King County Surface Water Management Division

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's

preliminary report to the King County Hearing Examiner for the May 22, 1997 public hearing are found to be correct and are incorporated herein by reference. Copies of the LUSD report will be attached hereto for submittal to the Metropolitan King County Council. The LUSD staff recommends approval of the application, subject to conditions.

3. Joe Blattner on behalf of Tarragon, L.L.C. has filed an application to reclassify 4.42 acres located on the Sammamish Plateau at the northeast corner of 228th Avenue Northeast and Northeast 8th Street from O-P (Office with P-suffix conditions) to CB-P (Community Business with P-suffix conditions). The property is an undeveloped parcel within the Sammamish Highlands/Inglewood Plaza Community Business Center designated by Policy U-618 of the 1994 Comprehensive Plan. The parcel is currently authorized for mixed use development featuring office and residential uses; the proposed redesignation would permit retail uses to be added to the mix. The Applicant's current proposal envisions 50,000 square feet of retail development and 100 multi-family residential units. Retail development currently exists within this Community Business Center on properties located south and southwest of the proposed rezoned site.
4. The primary issue raised by this application is whether findings can be made demonstrating changed circumstances with respect to this property as required by KCC 20.24.190.D. Since the previous area zoning it needs to be demonstrated that conditions or circumstances affecting the subject property have undergone substantial and material change not anticipated when the area zoning was last done, that these changes affect the property in a manner and degree different from other properties in the vicinity, and that the requested reclassification is required in the public interest.
5. At the public hearing held on May 22, 1997, the Applicant's presentation was based primarily on a market study done by Shorette KMS Appraisal Services in May 1996. This study showed the Sammamish Plateau having a shortage of property designated for retail development when compared with surrounding suburban communities and, due to population growth, that the demand for retail land had outstripped the supply. The study also argued that the economic return on the Applicant's site for retail development would be higher than for office development. Reviewing the study, however, it seemed likely that these facts and circumstances were in existence and evident to the County Council in 1993 when the last area zoning for the property occurred pursuant to the East Sammamish Community Plan Update. Accordingly, when these questions were raised, the Applicant requested that the hearing record be left open for the receipt of additional materials relating to changed circumstances.
7. The submission of additional materials by the Applicant and LUSD staff demonstrates that changed circumstances have occurred since 1993 affecting this property in the manner required by KCC 20.24.190.D. Foremost among these changes was the adoption of the 1994 Comprehensive Plan, which significantly amended the policies applicable to Community Business Centers. Under the 1985 Comprehensive Plan Community Centers were defined by Policy CI-301 as including "primarily retail stores and offices designed to provide shopping and other services for nearby residents". In addition, Policy CI-306 instructed that retail uses within Community Centers only "should develop on one corner of a road intersection" in order to preserve arterial traffic flows and encourage pedestrian travel between the stores.

These provisions were replaced within the 1994 Comprehensive Plan by a framework for

establishing Community Business Centers defined by Policy U-617 to "primarily provide shopping and other services for nearby residents in the Urban Growth Area". While office development remains on the list of appropriate uses, it no longer shares a favored position with retail uses, and the single corner retail limitation has been dropped altogether. The deletion of a policy preference supporting an equal balance between office and retail uses, plus elimination of the restriction on retail uses on multiple intersection corners, affects this parcel uniquely because its prior zoning designation excluding retail development was largely dictated by the pattern of existing uses within the Sammamish Highlands/Inglewood Plaza Community Business Center.

8. The Applicant's parcel is also affected by other changed circumstances, any one of which might have been foreseeable in 1993 but the combination of which has resulted in unanticipated consequences. These include a rapid spurt in residential growth on the Sammamish Plateau in 1995 and 1996 which exceeded the annualized growth rate for the area anticipated within the County's GMA population projections. This spurt is largely attributable to the fact that a wave of preliminary plat applications was approved by the County in 1990 and the resultant lots came into the market beginning in 1995. In addition, a water service moratorium imposed by the State onto the Sammamish Plateau Water District which restricted the creation of new tax lots was lifted in December 1994, thus freeing up an element of previously restrained development activity. Concurrently, local traffic congestion seems to have increased dramatically between 1993 and 1995, with traffic volumes growing at four indicator intersections on the Plateau at an average 14% annual rate. Sudden population growth on the Plateau and the resultant traffic congestion have increased both the demand for neighborhood retail facilities and also the difficulty encountered by residents in traveling from the Plateau to nearby shopping centers in Redmond and Issaquah. While these factors do not affect the Applicant's property uniquely, they do underscore that the redesignation is in the public interest because it increases the availability locally of retail services while decreasing traffic to and from the Plateau.
9. Finally, construction is moving forward on a King County Library site located west of the proposed rezone across 228th Avenue Northeast. Although this property was purchased by the County prior to 1993, its actual construction is a recent development the implications of which are only now being fully recognized. Construction of the library will enhance the pedestrian circulation factor in this neighborhood, a consequence which supports development of the Applicant's adjacent property with pedestrian-oriented retail facilities rather than with offices. Due to its contiguous location, the rezone property is affected uniquely by the construction of the library.

CONCLUSIONS:

1. The record demonstrates that since the last area zoning for the Sammamish Plateau conditions and circumstances affecting the subject property have undergone substantial and material changes not anticipated or contemplated within such previous zoning review. Moreover, due to its location, these changed circumstances affect this property in a manner and degree different from other properties in the vicinity. Finally, the reduction in traffic from the Plateau to other suburban shopping areas which will result from the reclassification supports the public interest in approving this application.

2. The public necessity, convenience and general welfare will be served by the proposed reclassification.
3. The conditions of approval recommended herein, including dedications and easements, will provide public improvements necessary to serve the reclassified property; are required to make the reclassified property reasonably compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.
4. No Comprehensive Plan map amendment is required by this application, and no changes to applicable area-wide P-suffix conditions were requested by the Applicant or will be approved under authority of this decision.

RECOMMENDATION:

APPROVE the reclassification of the subject property to CB-P in lieu of O-P, subject to the following conditions:

Pre-effective Conditions:

1. A dedication of 12 feet of right-of-way is required along the north side of NE 8th Street to provide for a total width of 42 feet from centerline along the property frontage.
2. A dedication of 8 feet of right-of-way is required along the east side of 228th Avenue NE to provide for a total width of 50 feet from centerline along the property frontage.

Post-effective Conditions:

3. No direct vehicular access is allowed onto 228th Avenue NE from the subject property.
4. The Applicant shall improve the frontage along NE 8th Street to accommodate a westbound left-turn lane, through lane, and right-turn lane at the intersection of 228th Avenue Northeast. The actual striping of the left-turn lane will be complete when an eastbound left-turn lane is constructed for its intersection. The remainder of the frontage on NE 8th Street shall be improved to meet urban minor arterial standards. These improvements will be constructed at the building permit stage.
5. The Applicant shall provide frontage improvements along 228th Avenue NE per King County Road Standards for an urban principal arterial.
6. In order to mitigate impacts at the intersection of SR 202 and Sahalee Way, the Applicant, or the Applicant in conjunction with other developments (Renaissance, Heights and Vistas at Beaver Crest, and Norris Estates), shall provide the following:
 - a. Lengthen the existing eastbound right-turn lane approximately 600 lineal feet including paved shoulders, drainage relocation, guardrail, signal modifications, and illumination.

- b. Engineering plans must be reviewed and approved by WSDOT prior to engineering plan approval and constructed prior to building permit approval, and bonded with assurance that construction will be completed prior to occupancy.
7. The existing P-suffix conditions applicable to the subject property shall remain in place, unless amended by proposed Ordinances 96-260, 96-261, and 96-263 (Countywide Zoning Code Conversion - Phase 2), or separate zone reclassification (P-suffix amendment) application.

ORDERED this 20th day of June, 1997.

Stafford L. Smith, Deputy
King County Hearing Examiner

TRANSMITTED this 20th day of June, 1997, to the following parties and interested persons:

Frank Bernia, Executor/Rodman Miller Estate
Joe Blattner/Tarragon LLC
Arthur Bjorkelo
Michael J. Corliss/Plateau Properties
Bernice F. Frank Estate
Roger Jenkin
Scott McCammant
Jan Nygren/John C. Radovich Dev.
Jeff Ottman
Tony Provine
Andy Robinson
E. Severson/Alper NW, Inc.
Mark Simpson/Bumgarten Architects

Greg Borba, DDES/LUSD
Marilyn Cox, DDES/LUSD/SEPA
Michaelene Manion, DDES/LUSD
Aileen McManus, DDES/LUSD
Lisa Pringle, DDES/LUSD
Steve Townsend, DDES/LUSD
Caroline Whalen, King County Council

NOTICE OF RIGHT TO APPEAL
AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of

Finance) **on or before July 7, 1997**. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council **on or before July 11, 1997**. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council approving or adopting a recommendation of the Examiner shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the date on which the Council passes an ordinance acting on this matter.

MINUTES OF THE MAY 22, 1997, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L96RZ002 - PLATEAU PROPERTIES APPLICATION FOR RECLASSIFICATION.

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Greg Borba (King County), Joe Plattner, Andy Robinson, and Mark Simpson.

The following exhibits were offered and entered into the hearing record May 22, 1997:

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| Exhibit No. 1 | Department of Development and Environmental Services Preliminary Report to the Hearing Examiner for the May 22, 1997 public hearing |
| Exhibit No. 2 | Zone Reclassification Application, received June 12, 1996 |
| Exhibit No. 3 | Environmental Checklist, received June 12, 1996 |
| Exhibit No. 4 | Mitigated Determination of Nonsignificance, dated April 1, 1997 |
| Exhibit No. 5 | Conceptual site and project plants, received April 25, 1997 |
| Exhibit No. 6 | King County Assessor Maps (4) |
| Exhibit No. 7 | Affidavit of Posting for Notice of Application, posting date July 18, 1996 |
| Exhibit No. 8 | Affidavit of Posting for Notice of Hearing/Recommendation, posting date April 28, 1997 |

Exhibit No. 9	Affidavit of Publication in <u>Seattle Times</u> , published April 30, 1997
Exhibit No. 10	Certificate of Transportation Concurrency, issued May 3, 1996
Exhibit No. 11	Certificate of Water Availability, issued March 20, 1996
Exhibit No. 12	Certificate of Sewer Availability, issued March 20, 1996
Exhibit No. 13	Traffic Impact Analysis Report, dated August 9, 1996
Exhibit No. 14	Market Study, dated March 15, 1996
Exhibit No. 15	Department of Development and Environmental Services Rezone File No. L96RZ002

The following exhibits were entered pursuant to an administrative continuance:

Exhibit No. 16	Memorandum (w/attachments) dated June 5, 1997, from Greg Borba to the Stafford L. Smith, Deputy Hearing Examiner
Exhibit No. 17	Letter (w/enclosures) dated June 5, 1997, from Joe Blattner to James N. O'Connor, King County Hearing Examiner

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